

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MARJORIE CHILDRESS,

Plaintiff,

v.

Case No. \_\_\_\_\_

DESILVA AUTOMOTIVE SERVICES LLC,  
PALMER ADMINISTRATIVE SERVICES  
INC., VAJIRA SAMARARATNE and  
PAYLINK PAYMENT PLANS LLC,

Defendants.

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, Defendants, Palmer Administrative Services Inc. (“Palmer”), PayLink Payment Plans LLC (“PayLink”); DeSilva Automotive Services LLC (“DeSilva”) and Vajira Samararante (“Samararante”) (collectively “Defendants”), by and through their attorneys, hereby remove the above-captioned action, which was originally filed in the Second Judicial District for the Bernalillo County in the State of New Mexico, assigned case number D 202 CV 2020 00272 to the United States District Court for the District of New Mexico, by the filing of this Notice of Removal with the Clerk of the United States District Court for the District of New Mexico. As grounds for removal, Defendants state as follows:

1. On or about January 14, 2020, Plaintiff Marjorie Childress (“Plaintiff”) filed an action in the Second Judicial District for the Bernalillo County, State of New Mexico, entitled *Marjorie Childress v. DeSilva Automotive Services, LLC, Palmer Administrative Services, Inc., Vajira Samararante, and Paylink Payment Plans LLC*, Case No. D 202 CV 2020 00272 (the “State Court Action”).

2. On or about January 17, 2020, Defendant Palmer was served with the Summons and Complaint. A true and correct copy of Plaintiff’s Complaint is attached hereto as Exhibit 1.

On or about January 21, 2020, Defendant PayLink was served with the Summons and Complaint. On or about February 12, 2020, Defendants DeSilva and Samararante were served with the Summons and Complaint.

3. There are no other pleadings or orders that have been served. A true and correct copy of the State Court Civil Docket Sheet is attached hereto as Exhibit

4. Pursuant to 28 U.S.C. § 1446(a), a complete copy of all process and pleadings served on Defendants in the State Court Action can be found in Exhibit 1.

5. Pursuant to 28 U.S.C. § 1446(b) and Fed. R. Civ. Proc., Rule 6, this Notice of Removal is timely because it has been filed within 30 days Defendants' receipt of the Summons and Complaint.

6. This Court is the district and division "embracing the place where [the State Court] action is pending." 28 U.S.C. § 1441(a).

7. This action is removable to this Court under 28 U.S.C. § 1441(a), because it is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331.

8. The Plaintiff's Complaint asserts four causes of action: (1) violation of Telephone Consumer Protection Act of 1991 (the "TCPA"), Subsection B; (2) violation of the TCPA, Subsection C; (3) Common-Law Claims; and (4) New Mexico Unfair Practices Act ("UPA").

9. Plaintiff's common-law claims and UPA claim arise from the same common nucleus of facts as and is so related to the Plaintiff's claim under the TCPA that it forms part of the same case or controversy under Article III of the United States Constitution. Indeed, all of Plaintiff's claims arise from the same alleged conduct.

10. The Complaint alleges that Defendants engaged in activity prohibited by the TCPA, 47 U.S.C. § 227, *et seq.* See Exhibit 1, Compl. ¶¶ 2-9 and 80-81. Plaintiff purports that she received multiple telephone calls from Defendant DeSilva at the direction of Defendants in violation of the TCPA from December 16, 2018 to December 16, 2019. See Compl. ¶¶ 49, 54, and 65.

11. This case is a civil action over which this Court has original federal question

jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiff's Complaint purports to assert federal causes of action against Defendants arising out of the laws of the United States, here, the TCPA. *See* Exhibit 1, Exhibit 1, Compl. ¶¶ 80-81. Thus, this case is a civil action over which this Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331.

12. As a result, this Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, because Plaintiff's Complaint is founded on claims or rights arising under the laws of the United States, and removal is appropriate under 28 U.S.C. § 1441.

13. By filing this Notice of Removal, Defendants do not waive any defenses that they may have to Plaintiff's claims.

14. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being promptly served upon counsel for Plaintiff via electronic mail at [childresslaw@hotmail.com](mailto:childresslaw@hotmail.com) and U.S. Mail at 1925 Aspen Dr. #600A, Santa Fe, New Mexico, 87505. Defendants shall also promptly file a copy of this Notice of Removal with the Clerk of the Second Judicial District Court of Bernalillo County, New Mexico.

Dated: February 17, 2020

Respectfully submitted,

Lewis Brisbois Bisgaard & Smith LLP

By: /s/Gregory L. Biehler

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*Counsel for Defendants Palmer Administrative Services Inc., PayLink Payment Plans LLC, DeSilva Automotive Services LLC, and Vajira Samararante*

**CERTIFICATE OF SERVICE**

I hereby certify that on the below date, a copy of the foregoing document was filed electronically, with the Court's CM/ECF, which will provide notice of the same on the parties. I further certify that on February 17, 2020, a copy of the Notice of Removal was sent to Plaintiff via electronic mail at childresslaw@hotmail.com and U.S. Mail at 1925 Aspen Dr. #600A, Santa Fe, New Mexico, 87505.

Dated: February 17, 2020

By: /s/ Gregory L. Biehler

Gregory L. Biehler

Attorneys for Defendants

*Counsel for Defendants Palmer Administrative Services Inc., PayLink Payment Plans LLC, DeSilva Automotive Services LLC, and Vajira Samararante*